

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
December 8, 2011 Hearing
Agenda Item 3

SUBJECT: Dr. Morgan Property Amendments (PA2011-138)
1419 Superior Avenue
▪ General Plan Amendment No. GP2011-007
▪ Code Amendment No. CA2011-010

APPLICANT: William Roy Morgan, M.D, F.A.C.S.

PLANNER: Kay Sims, Assistant Planner
(949) 644-3237 or KSims@newportbeachca.gov

PROJECT SUMMARY

Amendments to the General Plan and Zoning Map to change the land use designation from Multiple Unit Residential (RM 18 DU/AC) to Medical Commercial Office (CO-M 0.49 FAR); and change the zoning district designation from Multiple Unit Residential (RM 2420) to Office Medical (OM 0.49 FAR). The amendments were initiated by the property owner who seeks to continue the existing office use of the property. The property is currently developed with a medical office building. No new land uses or development is proposed at this time.

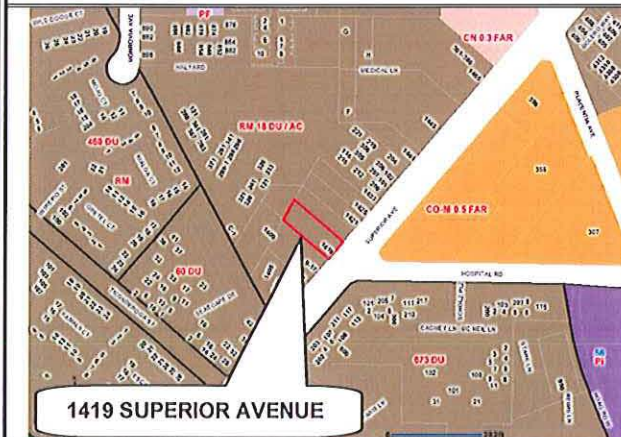
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ (Attachment No. PC 1) and attached Exhibits recommending the City Council:
 - Approve General Plan Amendment No. GP2011-007; and
 - Approve Code Amendment No. CA2011-010.

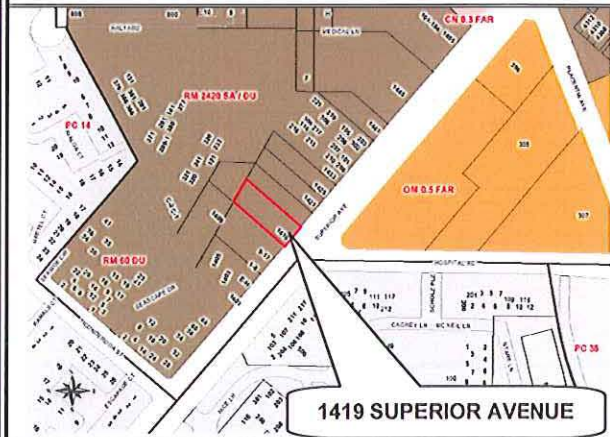
VICINITY MAP



GENERAL PLAN



ZONING



	EXISTING	PROPOSED
GENERAL PLAN	Multiple-Unit Residential (RM 18 DU/AC)	Medical Commercial Office (CO-M 0.49 FAR)
ZONING DISTRICT	Multiple-Unit Residential (RM 2420)	Office Medical (OM 0.49 FAR)

INTRODUCTION

Project Setting

The subject property is located in the West Newport Mesa area on the west side of Superior Avenue at the intersection of Hospital Road and Superior Avenue. Existing development on the west side of Superior Avenue, in this immediate area, consists of apartment complexes (Newport Terrace and The Beach House) and a multi-unit condominium building (not named). East of Superior Avenue and south of Hospital Road is a condominium complex (Versailles on the Bluff Planned Community, PC 10); north of Hospital Road is a medical office complex (Mariner's Medical Plaza). The Hoag Memorial Hospital complex (PC 38) is located adjacent to the east side of Versailles on the Bluff.

The subject property has a land area of approximately 13,650 square feet and is currently developed with an existing medical office building (approximately 6,590 square feet), which was constructed under Orange County jurisdiction in 1957. The building consists of the original one-story portion at the front of the site, and a two-story addition attached to the rear constructed in 1963. The intensity on the site is approximately 0.482 FAR. Current uses within the building include six medical and dental offices, a cosmetic surgery center, and a walk-in medical clinic, which is located at the front of the building. Vehicular access to the property is via a driveway off Superior Avenue along the northerly portion of front of the property. Approximately 33 parking spaces ($6,590/200 = 33$) are required for the existing uses on the subject site. Thirteen parking spaces are provided on the subject site and an additional 33 parking spaces are provided on the lots adjacent to the rear and northwesterly side of the subject property (46 total parking spaces). The lots are owned by the applicant, but are not a part of the application request. Due to the uses and number of parking spaces on the subject property, it is nonconforming with the existing General Plan (RM 18 DU/AC) and Zoning Code (RM 2420) designations and regulations.

Background

The West Newport Mesa area of the City, more specifically known as the County Triangle, was annexed to the City of Newport Beach October 7, 1979, pursuant to Resolution No. 9647. Portions of the annexation area were developed with multi-family residential units. With annexation into the City, the subject property became zoned R-3 (Restricted Multiple-Family Residential), and the medical office use became nonconforming. The R-3 zoning designation was changed to MFR (2178) pursuant to the adoption of City Council Ordinance No. 90-24, May 29, 1990.

On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update"). At that time, the property retained a multi-residential land use designation.

On January 28, 2008, the City Council adopted Ordinance No. 2008-05, which in addition to other Zoning Code changes, established the maximum time period for the abatement and termination of nonconforming uses in residential districts. Determinations of nonconformity could not be made until finalization of the City's Local Coastal Plan (LCP) on July 14, 2008, and adoption of the update to the Zoning Code.

October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20), which brought consistency between the Zoning Code and the Land Use Element of the General Plan. The zoning designation of the subject property was changed from Multiple-Family Residential (MFR 2178) to Multi-Unit Residential (RM 2420), and it became subject to abatement in accordance with Ordinance No. 2008-05.

The City has sent letters to owners of all known non-residential uses in residential areas that became subject to abatement pursuant to Ordinance No. 2008-05. Staff has met and continues to meet with many of the owners of those properties. Staff has discussed with those owners the options available as a result of a property's nonconformity. Options may include conversion of use or development to a residential use; request for extension of the abatement period; or request to amend the General Plan and Zoning Code to allow the continuation of the existing uses. In this case, the owner of the subject property chose to pursue amendments to change the land use designation of the property from multi-unit residential to medical office use in order to retain the existing medical uses. The subject application does not include a specific project for development at this time, but any future development would be in accordance with the standards of the proposed zoning district.

DISCUSSION

Analysis

Amendments to the General Plan Land Use Plan and Zoning Code are legislative acts. Neither City nor State Planning Law sets forth specific required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider applicable policies and development standards to ensure internal consistency.

General Plan

The subject property is located within the West Newport Mesa area of Newport Beach. In considering the proposed General Plan Amendment, the Planning Commission should consider the following statements, goals, and policies of the General Plan. The General Plan Land Use Element describes the West Newport Mesa as an area that:

"Contains a mix of residential, office, retail, industrial, and public uses. Development in the area dates back to the mid-twentieth century. Hoag Hospital is a major activity center that continues to affect development in the area. It generates a strong market for the development of uses that support the

hospital's medical activities such as doctors' offices, convalescent and care facilities, medical supply, pharmacy, and similar uses. Retail commercial uses serve medical purposes, as well as nearby residents."

Policy Overview

"The General Plan provides for a mix of land uses for West Newport Mesa that include office, research, convalescent care, and retail facilities supporting Hoag Hospital,..... While distinct sub-districts are defined by the Land Use Plan, the assembly and planning of multiple parcels across these districts to create a unified center that is linked by pedestrian walkways, parklands, and other amenities is encouraged."

Goal LU 6.6

"A medical district with peripheral medical services and research facilities that support the Hoag Hospital campus within a well-planned residential neighborhood, enabling residents to live close to their jobs and reducing commutes to outlying areas."

Policy LU 6.6.1 (Hospital Supporting Uses Integrated with Residential Neighborhoods)

"Prioritize the accommodation of medical-related and supporting facilities on properties abutting the Hoag Hospital complex [areas designated as "CO-M (0.5)"] with opportunities for new residential units [areas designated as "RM (18/AC)"] and supporting general and neighborhood-serving retail services ["CC (0.75)" and "CN (0.3)"] respectively."

Although the property is not located directly abutting the Hoag Hospital complex, it fronts on Superior Avenue at the intersection of Superior Avenue and Hospital Road. It provides a medical facility that is clearly visible and easily accessible from either street for residents of the area, the City, and visitors to the City's beaches. It is also located in the immediate area of the medical commercial office (CO-M) designated property located directly across Superior Avenue. In furtherance of the policies stated above, approval of the proposed amendments will allow the continuation of the existing medical office uses without being subject to abatement.

Policy LU 5.6.1 (Compatible Development)

"Require that buildings and properties be designed to ensure compatibility within and as interfaces between neighborhoods, districts, and corridors."

Staff believes that the current medical office building and uses on the subject property are compatible with the multi-unit residential uses and other medical uses in the neighboring area. The original building on the property was constructed as a medical office building in 1957, and the property has been in continuous use as a medical use facility since that time. The walk-in medical clinic has been operating since 1983. The facility's visibility and convenient access from Superior Avenue allows it to provide emergency and urgent care services for residents and visitors. Two of the building suites contain medical offices and a surgery center, which has been continuously occupied by the applicant for over 25 years. The medical/dental office services are similar to other

medical office uses located directly across Superior Avenue. The neighboring multi-unit residential uses on the west side of Superior Avenue are developed as three-story buildings with residential units constructed above either parking garages or carports. The subject medical office building is separated from the residential units either by the adjacent lots used for parking and/or by access drives from Superior Avenue. The multi-unit residential development to the east of the subject site is located across Superior Avenue, which is a four-lane, divided road. There is no history of land use incompatibility with these surrounding residential uses.

The proposed Medical-Commercial Office (CO-M 0.49 FAR) designation is intended to provide primarily for medical-related offices, other professional offices, retail, short-term convalescent and long-term care facilities, research labs, and similar uses, with a maximum floor area to land area ratio (FAR) of 0.49. The existing medical office gross floor area (6,590 square feet) on the property is consistent with the proposed 0.49 FAR (6,689 square feet) limitation allowed.

Zoning Code

The Office Medical (OM) Zoning District is intended to provide for areas appropriate primarily for medical-related offices, other professional offices, retail, short-term convalescent and long-term care facilities, research labs, and similar uses. The proposed OM 0.49 district would allow development of projects with a maximum floor area ratio (FAR) of 0.49. The proposed FAR would not require a vote of the electorate pursuant to Measure S (Charter Section 423) and is consistent with the square footage of the existing medical office development on the property.

The stated purpose and intent of the Zoning Code is to carry out the policies of the City of Newport Beach General Plan. Consistency between the General Plan and the Zoning Code Designation is critical to ensure orderly development and enforcement. Under the existing RM (2420) zoning designation, the subject property could be developed with a maximum of five dwelling units and would require a total of 13 parking spaces.

The main purpose of the requested amendment is to maintain the existing medical office use development. The total existing number of parking spaces provided on the subject property and the lots adjacent to the rear and the northeasterly side exceed the number of parking spaces required by the current zoning code for the medical uses on site. Any redevelopment of the adjacent lots would require that the subject site be redeveloped, since the required parking would no longer be provided. With regard to the subject property, the existing medical office development would be allowed without abatement. Future new development would require conformance with applicable Office-Medical (OM 0.49 FAR) Zoning District development and parking standards. Although the applicant is not proposing any new project on the subject property, approval of the amendments would allow other uses permitted within the Office-Medical (OM) Zoning District. General office and retail uses would be permitted by right, but more intensive uses would require discretionary approval, which would likely include conditions of approval.

Charter Section 423 (Measure S) Analysis

Pursuant to City Charter Section 423 and Council Policy A-18, an analysis must be prepared to establish whether a proposed General Plan amendment (if approved) requires a vote by the electorate. The proposed amendment is analyzed with 80 percent of the increases in traffic, dwelling units and non-residential floor area created by previous general plan amendments (approved within the preceding ten years) within the same statistical area. The proposed amendment and the two most recent amendments previously approved within this statistical area are provided below in Table 1. The following thresholds are applicable: 100 dwelling units, 100 a.m. peak hour trips, 100 p.m. peak hour trips, or 40,000 square feet of non-residential floor area. If any of the thresholds are exceeded and the City Council approves the requested General Plan Amendment, the Amendment would be classified as a "major amendment" and be subject to voter consideration. Approved amendments, other than those approved by the electorate, are tracked for ten years and factored into the analysis of future amendments as indicated.

The subject project site is located within Statistical Area A2 of the General Plan Land Use Element, and would result in an increase of 6,689 square feet of non-residential floor area. Based on the trip generation rates contained in the Council Policy A-18 (Commercial rate), the proposed project is forecast to generate an additional 18 a.m. peak hour trips and 24 p.m. peak hour trips. The number of dwelling units would be reduced by five, resulting in no total change in the "Increase in Allowed Dwelling Units" category.

Two prior amendments have been approved within Statistical Area A2 since the adoption of the 2006 General Plan (GP2010-004) and the 2010 Zoning Code. Both of the amendments (shown in Table 1) involved land use changes from the RM (2420) designation to IG (General Industrial).

Table 1, summarizes the increase in allowed floor area, peak hour traffic (a.m. and p.m.) and reduction in the number of dwelling units created by the proposed amendment with the recommended CO-M designation at 0.49 FAR. The increases indicated in the table are based upon the City taking action on each amendment request separately and sequentially, where only 80 percent of the changes for each approved amendment are added to the changes for each following amendment. As indicated, none of the four (4) thresholds would be exceeded, and therefore, a vote pursuant to Charter Section 423 is not required. If the proposed General Plan amendment is approved by the City Council, the amendment will become a prior amendment and 80 percent of the increases will be tracked for ten years for any proposed future amendments. A more detailed analysis is attached (Attachment No. PC 4).

Table 1: Charter Section 423 Analysis Summary Statistical Area A2				
	Increase in Allowed Floor Area	Increase in a.m. Peak Hour Trips	Increase in p.m. Peak Hour Trips	Increase in Allowed Dwelling Units
Proposed GP2011-007 1419 Superior Avenue Prior Amendments (80%)	6, 689 sq. ft.	18	24	0
GP2011-005 1537 Monrovia Ave (PA2011-082)	13,432 sq. ft.	9	8	0
GP2011-006 1539 Monrovia Ave	19,857 sq. ft.	13	11	0
TOTALS	39,978 sq. ft.	40	43	0
Section 423 Thresholds	40,000 sq. ft.	100	100	100

SB18 Tribal Consultation Guidelines

Pursuant to Section 65352.3 of the California Government Code, a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (NAHC) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources. The City received comments from the NAHC indicating that nine (9) tribe contacts should be provided notice regarding the proposed project. The appropriate tribe contacts supplied by the NAHC were provided notice on November 3, 2011. Section 65352.3 of the California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period. To date, the City has not received any responses. Therefore, the Planning Commission may recommend the proposed project to City Council at this time. However, the City Council may not act on the proposed amendments until the 90-day notice period is concluded. Given that the sites are presently developed and that no development is proposed at this time, staff does not anticipate any conflicts or need for monitoring by the tribes. If any request for consultation is received from the tribes, such consultation will be completed prior to forwarding this application to the City Council for consideration.

Environmental Review

The proposed amendments are exempt since they do not entail any significant alteration to the subject property and will bring the General Plan Land Use and Zoning District designations into consistency with the present use. The sites are presently developed and no new development is proposed at this time, which is categorically exempt under

Section 15301 of the California Environmental Quality Act (CEQA) Guidelines – Class 1 (Existing Facilities).

Summary

The applicant has requested the amendments to allow retention of the existing medical office building and uses. The medical office building was constructed in 1957 and the medical uses were permitted uses, at that time, consistent with the provisions of the zoning code of the County of Orange. The subject properties are located within the County Triangle which was annexed in October 1979. The medical uses on the property have been in existence since construction of the medical office building. Staff believes that requiring abatement of the uses, at this time, would be contrary to the General Plan Policies, as stated above. Also continuation of these uses and future development consistent with the CO-M 0.49 FAR designation would not conflict with the General Plan. Staff does not foresee any adverse environmental impacts with continued use or redevelopment. The approval of the General Plan Amendment to the CO-M 0.49 FAR designation does not necessitate a vote of the electorate, as required by Section 423 of the City Charter.

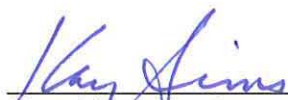
Alternatives

Alternatives to the recommended amendments could include disapproval of the request and retention of the existing General Plan and Zoning designations of Multi-Unit Residential. If it is the desire of the Planning Commission to disapprove the request in its entirety, the attached resolution for denial is provided (Attachment No. PC 2). It should be noted that such an action would require abatement of the existing nonresidential uses in accordance with the provisions of the Zoning Code, Section 20.38.100.

Public Notice

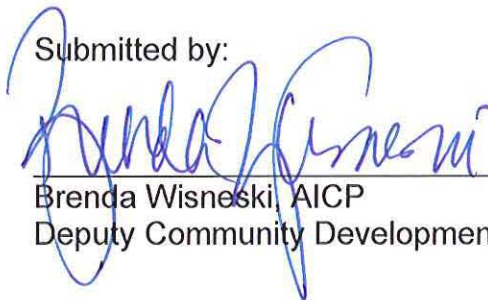
Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the properties, and was posted at the site a minimum of ten days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



Kay Sims, Assistant Planner

Submitted by:



Brenda Wisneski, AICP
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution Recommending Approval with Attached Exhibits
- PC 2 Draft Resolution Denying the Amendment Requests
- PC 3 Relevant Information and Photos
- PC 4 Section 423 Analysis Table

Attachment No. PC 1

Draft Resolution Recommending
Approval with Attached Exhibits

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING APPROVAL TO THE CITY COUNCIL AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND THE ZONING CODE TO CHANGE THE LAND USE DESIGNATION FROM MULTI-UNIT RESIDENTIAL (RM 18 DU/AC) TO MEDICAL COMMERCIAL OFFICE (CO-M 0.49 FAR) AND TO CHANGE THE ZONING DISTRICT TO OFFICE-MEDICAL (OM 0.49 FAR), FOR PROPERTY LOCATED AT 1419 SUPERIOR AVENUE (PA2011-138)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. In 1957, the County of Orange authorized construction of a medical office building located at 1419 Superior Avenue.
2. The West Newport Mesa area of the City, commonly referred to as the County Triangle, was annexed to the City of Newport Beach October 7, 1979, pursuant to Resolution No. 9647. Portions of the annexation area were developed with multi-family residential units. Upon annexation into the City, the subject property became zoned R-3.
3. On May 29, 1990, the R-3 zoning designation was changed to MFR (2178) pursuant to adoption of City Council Ordinance No. 90-24.
4. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
5. On January 28, 2008, the City Council adopted Ordinance No. 2008-05, which established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
6. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The multiple residential zoning designation of the subject property was changed from Multiple-Family Residential (MFR, 2178) to Multi-Unit Residential (RM 2420). Since the use of the subject property was

medical office in a residential zone, it was subject to abatement in accordance with Ordinance No. 2008-05.

7. On July 11, 2011, an application was filed by William Roy Morgan, M.D., F.A.C.S., owner of the subject property located at 1419 Superior Avenue, requesting approval of amendments to the General Plan and the Zoning Code to change the land use from multi-residential to medical office use.
8. The subject property is currently located within the Multi-Unit Residential (RM 2420) Zoning District and the General Plan Land Use Element category Multi-Unit Residential Land Use (RM 18 DU/AC).
9. The recommended change of the General Plan designation of 1419 Superior Avenue is from Multi-Unit Residential (RM 18 DU/AC) to Office-Medical (OM 0.49 FAR).
10. The recommended change of the Zoning District designation of 1419 Superior Avenue is from Multi-Unit Residential (RM 2420) to Medical Commercial Office (CO-M 0.49 FAR).
11. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required if the City Council approves the suggested General Plan Amendment: more than 100 peak hour trips (a.m. or p.m.), adds 40,000 square feet or more of non-residential floor area or adds more than 100 dwelling units in a statistical area.
12. This is the third General Plan Amendment that affects Statistical Area A2 since the General Plan update in 2006. The cumulative results that include 80 percent of the increase of the prior amendments approved at 1537 Monrovia Avenue (GP2011-005) and 1539 Monrovia Avenue (GP2011-006) further reduce the number of dwelling units (-31 = 0.0 dwelling units) and increases the non-residential floor area (39,977 square feet), resulting in an overall increase of 40 a.m. peak hour trips and an overall increase of 43 p.m. peak hour trips based on the blended commercial trip rates reflected in Council Policy A-18. As none of the four thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
13. A public hearing was held on December 8, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

2. The proposed amendments are exempt since they do not entail any significant alteration to the subject property and are essentially bringing the General Plan Land Use Designations and Zoning Districts to be consistent with the existing use of the buildings and properties involved.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. Amendments to the General Plan are legislative acts. Neither the City nor State Planning law set forth any required findings for either approval or denial of such amendments.
2. Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience, and the general welfare.
3. The amendments for the subject property to allow the existing building and uses are consistent with the goals and policies of the General Plan, in particular the West Newport Mesa Policy Overview and Policies LU 6.6 and LU 6.6.1, since the property is in the vicinity of the Hoag Hospital complex and is located on the west side of the intersection of Superior Avenue and Hospital Road. It provides a medical facility that is clearly visible and easily accessible from either street, and provides a medical facility for residents of the area, the City, and visitors to the City's beaches. It is also located in the immediate area of the CO-M designated property located directly across Superior Avenue.
4. Future development of the subject property will be consistent with the goals and policies of the Land Use Element of the General Plan, specifically Policy LU 6.2.1 since the reduction in housing potential is not significant given the anticipated housing production within other areas of the City, and will not impede the City's ability to achieve housing production goals as set forth by the Southern California Area of Governments (SCAG).
5. The amendment will be consistent with the purpose and intent of the Office-Medical (OM 0.49 FAR) Zoning District of the Newport Beach Municipal since any future development of the property with uses other than those existing on the subject

property must comply with the development standards and requirements of the Zoning Code for the Office-Medical (OM 0.49 FAR) Zoning District.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby recommends City Council approval of General Plan Amendment No. GP2011-007, changing the designation from Multi-Unit Residential (RM 18 DU/AC) to Medical Commercial Office (CO-M 0.49 FAR); and Code Amendment No. CA2011-010 changing the designation from Multi-Unit Residential (RM 2420) to Office-Medical (OM 0.49 FAR), affecting 1419 Superior Avenue, Statistical Area A2, legally described as FIRST ADD TO NEWPORT MESA TR LOT 819 70 FT LOT IN LOT -EX PORS IN ST.
2. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Dr. Morgan Property Amendments (PA2011-138) including, but not limited to, General Plan Amendment No. GP2011-007 and Code Amendment No. CA2011-010**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicants shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
3. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 8th DAY OF DECEMBER, 2011.

AYES: _____

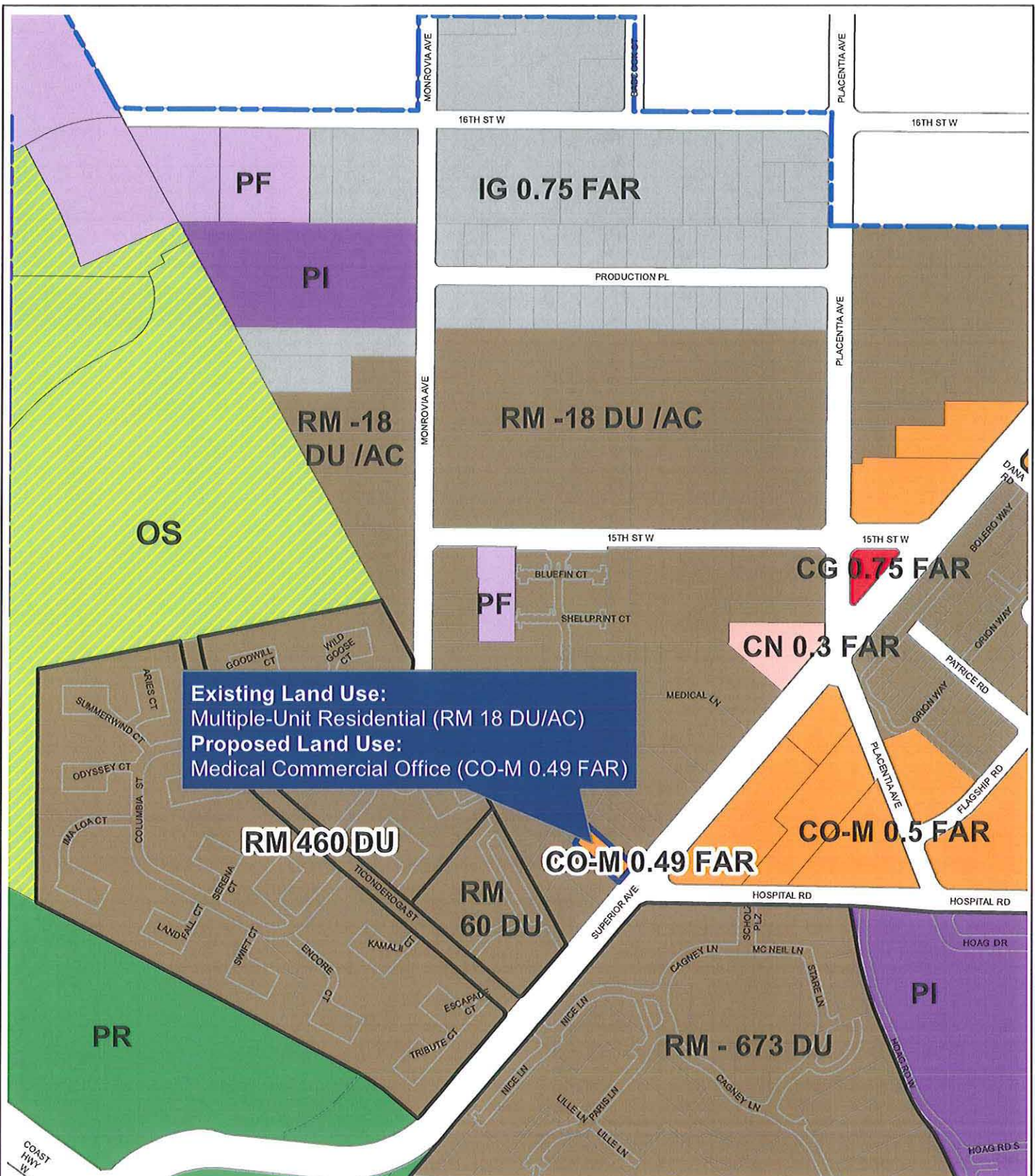
NOES: _____

ABSTAIN: _____

ABSENT: _____

BY: _____, Chairman

BY: Bradley Hillgren, Secretary



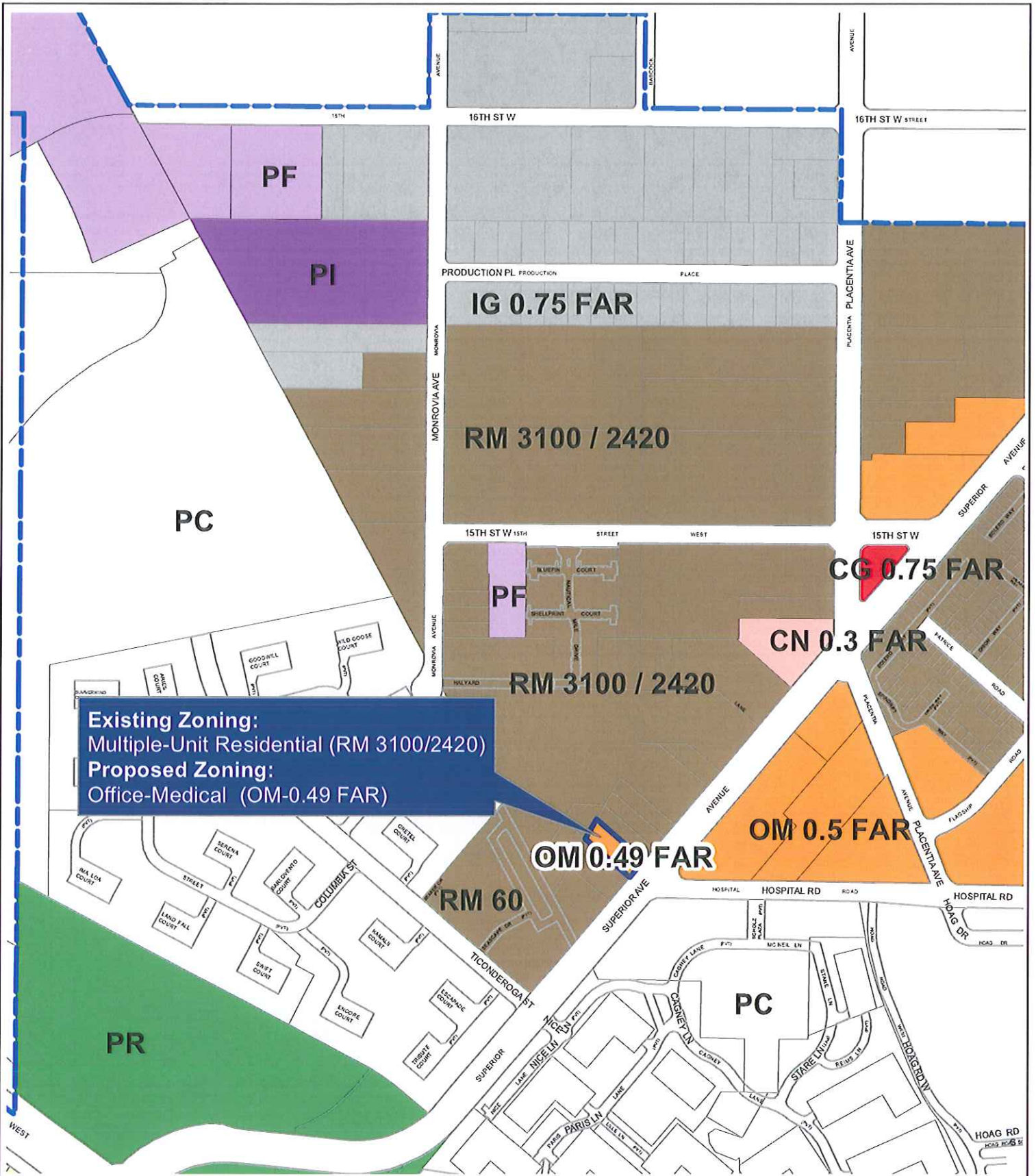
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GP2011-007 (PA2011-138) General Plan Amendment 1419 Superior Avenue

0 250 500 Feet



NEWPORT
Info
 NEWPORT INFORMATION SYSTEMS



CA2011-010 (PA2011-138) Zoning Code Amendment

1419 Superior Avenue

0 250 500 Feet



NEWPORT
Beach
CALIFORNIA

Attachment No. PC 2

Draft Resolution Denying the Amendment
Requests

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND THE ZONING CODE TO CHANGE THE LAND USE DESIGNATION FROM MULTI-UNIT RESIDENTIAL (RM 18 DU/AC) TO MEDICAL COMMERCIAL OFFICE (CO-M 0.49 FAR) AND TO CHANGE THE ZONING DISTRICT DESIGNATION TO OFFICE-MEDICAL (OM 0.49 FAR), FOR PROPERTY LOCATED AT 1419 SUPERIOR AVENUE (PA2011-138)

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9. The recommended change of the General Plan designation of 1419 Superior Avenue is from Multi-Unit Residential (RM 18 DU/AC) to Office-Medical (OM 0.49 FAR).
10. The recommended change of the Zoning District designation of 1419 Superior Avenue is from Multi-Unit Residential (RM 2420) to Medical Commercial Office (CO-M 0.49 FAR).
11. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required if the City Council approves the suggested General Plan Amendment: more than 100 peak hour trips (a.m. or p.m.), adds 40,000 square feet or more of non-residential floor area or adds more than 100 dwelling units in a statistical area.
12. This is the third General Plan Amendment that affects Statistical Area A2 since the General Plan update in 2006. The cumulative results that include 80 percent of the increase of the prior amendments approved at 1537 Monrovia Avenue (GP2011-005) and 1539 Monrovia Avenue (GP2011-006) further reduce the number of dwelling units (-31 = 0.0 dwelling units) and increases the non-residential floor area (39,977 sq. ft.), resulting in an overall increase of 40 a.m. peak hour trips and an overall increase of 43 p.m. peak hour trips based on the blended commercial trip rates reflected in Council Policy A-18. As none of the four thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
13. A public hearing was held on December 8, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2: CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. FINDINGS.

1. Amendments to the General Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare. The Planning Commission has determined that, in this particular case, that the current zoning designation is appropriate and that a change is not necessary for the public necessity and convenience and the general welfare.
3. The existing nonresidential use is not consistent with the goals and policies of the land use element of the General Plan or the Zoning District requirements; and, therefore, the current uses will be subject to abatement in accordance with Ordinance No. 2008-005.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby denies the requests for General Plan Amendment No. GP2011-007, changing the land use designation from Multiple Unit Residential (RM 18 DU/AC) to Medical Commercial Office (CO-M 0.49 FAR), and Code Amendment No. CA2011-010 changing the zoning district designation from Multi-Unit Residential (RM 2420) to Office-Medical (OM 0.49 FAR), affecting 1419 Superior Avenue, Statistical Area A3, legally described as FIRST ADD TO NEWPORT MESA TR LOT 819 70 FT LOT IN LOT -EX PORS IN ST.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 8th DAY OF DECEMBER, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

, Chairman

Bradley Hillgren, Secretary

Attachment No. PC 3

Relevant Information and Photos

PA2011-1 for GP2011-007 CA2011-010
1419 Superior Avenue
William Roy Morgan, MD., F.A.C.S.













RESOLUTION NO. **9647**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPLYING TO THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) OF ORANGE COUNTY FOR AUTHORIZATION TO ANNEX TO THE CITY OF NEWPORT BEACH CERTAIN INHABITED TERRITORY SURROUNDED BY THE CITY OF NEWPORT BEACH AND KNOWN AS THE "COUNTY TRIANGLE," PURSUANT TO THE MUNICIPAL ORGANIZATION ACT OF 1977 (Annexation No. 87)

WHEREAS, the logical formation and determination of the boundaries of the City of Newport Beach is an important factor in the orderly development of the City; and

WHEREAS, the proper management of islands of County territory by the City is essential to the social, fiscal and economic well-being of the City; and

WHEREAS, the extension of the logical boundaries of the City to include islands of County territory is appropriate; and

WHEREAS, the area known as the "County Triangle" is totally surrounded by the City of Newport Beach and can best be served by the City of Newport Beach,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newport Beach as follows:

1. The City Council of the City of Newport Beach hereby applies to the Local Agency Formation Commission of Orange County for authorization to order the annexation of the County Triangle without an election, pursuant to the Municipal Organization Act of 1977.

2. The area to be annexed, known as the County Triangle, is generally described as follows:

10/5/79

That area located between Superior Avenue on the southeast, the city limits of the City of Newport Beach on the north, and the city limits of the City of Newport Beach on the southwest,

and, said area is shown on the map attached hereto and marked Exhibit "A" and incorporated herein by this reference.

3. This proposed change of City boundaries is by form of annexation of an unincorporated island completely surrounded by the City of Newport Beach.

4. The City Council of the City of Newport Beach hereby requests that the proceedings to be taken for annexation of said area be authorized pursuant to the Municipal Organization Act of 1977 and that the proceedings may be taken without election pursuant to Section 35150(f) of the California Government Code, and that the Local Agency Formation Commission perform all acts necessary to implement said change of organization of the City of Newport Beach.

5. The nature of these proceedings are a jurisdictional boundary change for the logical inclusion of a County island within the corporate limits of Newport Beach.

ADOPTED this 9th day of October, 1979.

Paul Ryckoff
Mayor

ATTEST:

Doris Deane
City Clerk

Doris Deane
CERTIFIED AS THE ORIGINAL
CITY CLERK OF THE CITY OF NEWPORT BEACH

HRC/kv
10/4/79

DATE OCT 11 1979

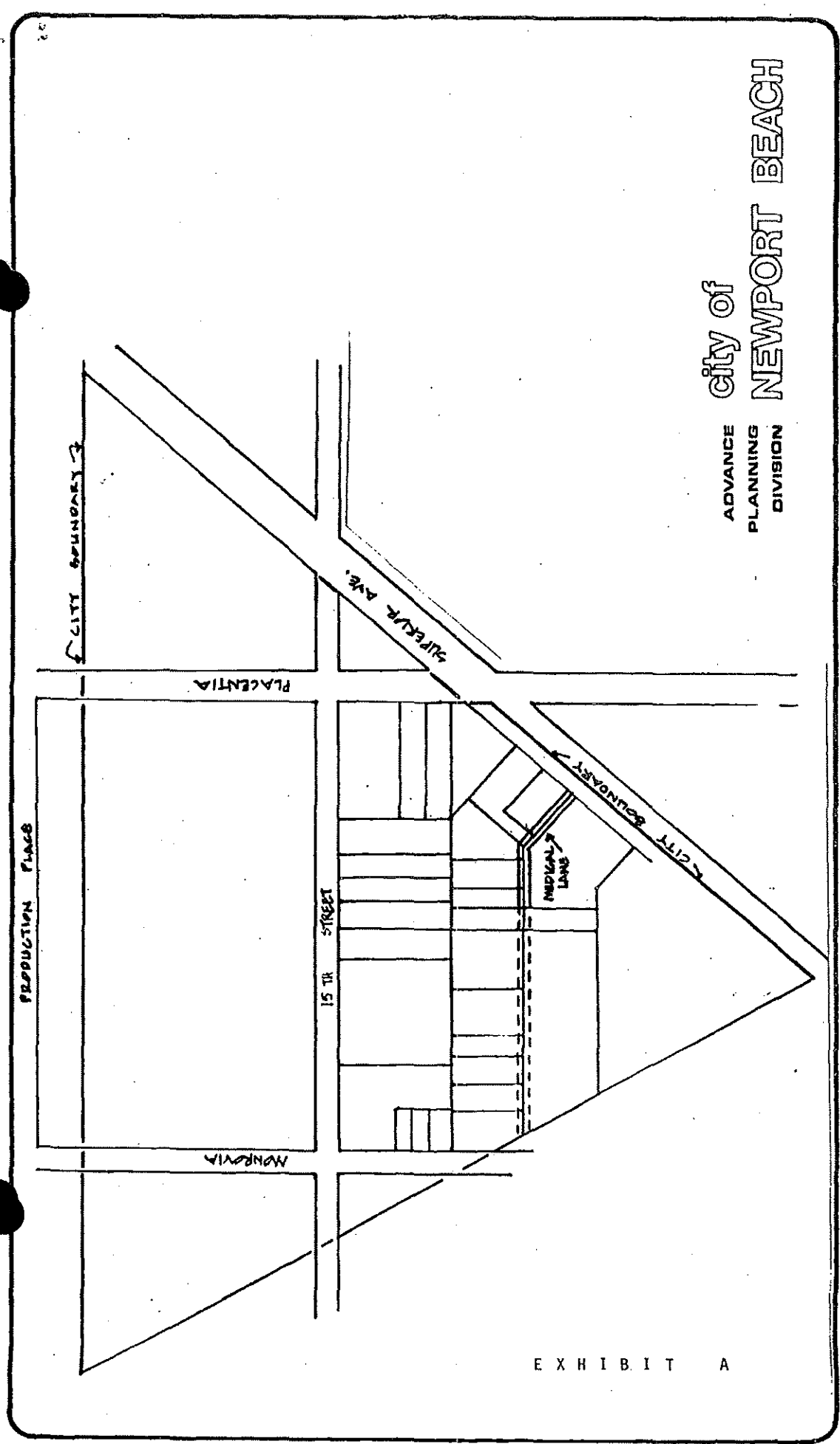


EXHIBIT A

ORDINANCE NO. 90-24

AN ORDINANCE OF THE CITY OF NEWPORT BEACH AMENDING A PORTION OF DISTRICTING MAPS 2, 3, 6, 9, 11, 12, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 32, 37, 46, 50, AND 52, TO RECLASSIFY SPECIFIC LOTS CITYWIDE FROM THEIR CURRENT ZONES OF C-O-H, C-1-H, U, U-MHP, R-2, R-3, R-3-B, R-3-MHP, R-3-SPR, R-4, SP-6, SP-6(R-4), SP-6(R-3), AND SP-6(R-2) TO MFR, MFR-B, MFR-MHP, MFR-SPR, AND SP-6 MFR AND AMENDING THE CANNERY VILLAGE/MCFADDEN SQUARE SPECIFIC PLAN (SP-6) TO INCLUDE A MULTI-FAMILY RESIDENTIAL(MFR) ZONING DISTRICT, A R-1 ZONING DISTRICT AND AMEND THE R-2 ZONING DISTRICT AND COMMERCIAL DEVELOPMENT STANDARDS OF SP-6.

(Planning Commission Amendment No. 698)

The City Council of the City of Newport Beach does ordain as follows:

SECTION 1. The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

TRACT 10272 LOT 1
FIRST ADD TO NEWPORT MESA TRACT LOT 815, 816, 915, 916
FIRST ADD TO NEWPORT MESA TRACT LOT 817 PORTION OF
LOT, P M 209-20
FIRST ADD TO NEWPORT MESA TRACT LOT 817 W66 FT in lot
FIRST ADD TO NEWPORT MESA TRACT LOT 918 W1/2 E 1 AC W
158.88 FT IN LOT
FIRST ADD TO NEWPORT MESA TRACT LOT 917 W 293.25 FT
E365.85 FT in lot
PM 237-1 PAR 1
NEWPORT HEIGHTS LOT 47 SELY 210.12 FT NWLY 444 FT -EX
NWLY 78 FT N ELY 105 FT & NWLY 18 FT-
NEWPORT HEIGHTS LOT 47 SELY 78 FT NWLY 311.88 FT NELY
105 FT -EX N WLY 18 FT-
RESUB 657 (P M 160-10 PAR 1)
RESUB 656 (P M 159-17 PAR 1)
RESUB 224 (P M 005-37 PAR D)
NEWPORT BEACH SEC A LOT F
TR 10274 LOT 1
IRVINE SUB LOT 171 BLK 54 POR OF LOT
TR 3867 LOT B
TR 8917 LOT 1
TR 3232 LOT 6
TR 4692 LOTS 1-99
TR 1396 LOT 1
TR 5616 LOT 1
TR 8406 LOT 1
CORONA DEL MAR LOT BLK D POR OF BLK K
PM 222-29 PAR 1
PM 228-35 PAR 1
RESUB 601 (P M 138-23 PAR 1)
TR 1220 LOTS 2-28
PM 041-43
PM 041-45
CORONA DEL MAR BLK 231 AND BLK 232 INCLUDING PORTIONS
OF ABAND STREETS AND ALLEYS
FIRST ADD TO NEWPORT MESA TRACT LOT 917 E 72.6 FT IN LOT

IRVINE SUB BLK 94, RESUB 758 (PM 185/9-10), RESUB 396 (PM 59/39)
 TRACT 1237 LOT 1
 TR 7789 LOT 1
 PM 216-28 PAR 1
 BALBOA TR EAST SIDE ADD BLK 22 LOT 9 POR OF LOT AND T
 7 R 10 SEC 2 POR NE 1/4
 TR 12035 LOT 1
 BALBOA TR BLK 2 LOTS 1-4
 TR 10135 LOT 1
 TR 8073 LOT 2
 TR 7599 LOT 1
 TR 6027 LOT 1
 TR 12208 LOT 1
 TR 10849 LOT 1
 TR 11935 LOTS 1-3
 BALBOA TR BLK 3 LOTS 4-8
 PM 39-23
 TR 1718 LOTS 3,4, & 6-21
 TR 5854 LOTS 1-5, & 8-12 AND RESUB 206 (P M 80-37)
 IRVINE SUB PORTION BLK 53 LOT 164 5.83 AC IN LOT
 CORONA DEL MAR BLK 238 (ODD LOTS 1-31) & BLK 239 (EVEN
 LOTS 2-32)
 TR 518 BLK J LOTS 17-28
 FIRST ADD TO NEWPORT MESA TR LOT 917 S 48 FT W 148 FT IN
 LOT
 FIRST ADD TO NEWPORT MESA TR LOT 917 N 50 FT S 98 FT W
 148 FT IN LOT
 FIRST ADD TO NEWPORT MESA TR LOT 917 100 FT W 148 FT S
 148 FT IN LOT -EX S 50 FT-
 TR 12079 LOT 1
 CORONA DEL MAR POR BLK C
 IRVINE SUB LOT 169 BLK 2 IRREG LOT
 IRVINE SUB LOT 169 BLK 2 POR OF LOT AS DESC IN DD -
 7839/781 OR-
 TR 5783 LOT 1-20
 FIRST ADD TO NEWPORT MESA TR LOT 817 N 66 FT S 132 FT E
 1/2
 FIRST ADD TO NEWPORT MESA TR LOT 715
 TR 3813 LOT 104
 TRACT 3606 LOTS 1-11
 RESUB 580 (P M 120-41-42), TR 8638 LOT 1
 IRVINE SUB LOT BLK 93 POR OF BLK (P M 35-1 PAR 1)
 IRVINE SUB LOT 235 BLK 93 7.46 AC IN SWLY 1/2
 TR 8381 LOT 1
 PM 133-47 PAR 1
 TR 2758 LOTS 1-24
 TR 13013 LOT 1
 TR 10297 LOT 1
 TR 12360 LOTS
 NEWPORT HEIGHTS LOT 47 POR OF LOT
 TR 907 LOTS 458-492, 830-848, 885, 920-925, 1081-1089, 1092-1094, P M
 112-04 PAR 1, P M 146-26, TR 8362 LOT 1, P M 105-43 PAR 1
 TR 7530 LOT 1
 TR 14028
 NEWPORT BEACH SEC B BLK 18 LOTS 1-14, P M 212-17
 FIRST ADD TO NEWPORT BEACH BLK 20 LOTS 1-3 ALL -INC 10
 FT ADJ ON SW- -INC POR ABAN ST ADJ- AND SELY 10 FT
 LOT 9-13 BLK 20, RESUB 326 (PM 41-43)
 TR 1893 LOTS 1-3 & 7-27
 RESUB 609 (P M 132/25 PAR 1)
 PM 224-7
 FIRST ADD TO NEWPORT MESA TRACT POR LOT 819, 918, AND
 LOT 919

as shown on the attached Exhibit "A" and hereinafter referred to as "Properties." Title 20 of the Newport Beach Municipal Code is hereby amended to rezone all of the above described Properties from the C-O-H, C-1-H, U, U-MHP, R-2, R-3, R-3-B, R-3-MHP, R-3-SPR, R-4, SP-6, SP-6 (R-4), SP-6 (R-3), and SP-6 (R-2) Districts to MFR, MFR-B, MFR-MHP, MFR-SPR, and SP-6 MFR.

SECTION 2. The Planning Director of the City of Newport Beach is hereby instructed and directed to change the Districting Maps No. 2, 3, 6, 9, 11, 12, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 32, 37, 46, 50, and 52, referred to in Section 20.01.050 of the Newport Beach Municipal Code, and by such reference is made a part of Title 20, prior to the effective date of this ordinance, to reflect the change as described in Section 1 hereof, and shown in the attached Exhibit "B."

SECTION 3. Chapter 20.63 of Title 20 of the Newport Beach Municipal Code is hereby amended as shown in Exhibit "C" to include the Multi-Family Residential (MFR) Zoning District and the R-1 Zoning District subject to certain exceptions and change the R-2 and Commercial Development Standards of the Cannery Village/McFadden Square Specific Plan (SP-6).

SECTION 4. The Planning Director of the City of Newport Beach is hereby instructed and directed to change the Cannery Village/McFadden Square Specific Plan (SP-6), referred to in Chapter 20.63 of the Newport Beach Municipal Code, and by such reference is made a part of Title 20, prior to the effective date of this ordinance, to reflect the change as described in Section 3 hereof, and shown in the attached Exhibit "C."

SECTION 5. The amendments described in this Ordinance shall be effective and in full force thirty days from and after the date of its adoption. The City shall not refuse to issue building permits, on the basis of zoning inconsistency, for those projects which are consistent with the standards in effect at the time plans are submitted. These plans must be submitted to the Building Department or Planning Department for building permit or approval in concept prior to the effective date of this ordinance provided, that such submittal has been accepted as full and complete, that no discretionary approval is required, and that the applicant diligently processes the plans and provides the Building and Planning Departments with all necessary information preliminary to the issuance of a building permit or approval in concept.

SECTION 6. The Planning Director of the City of Newport Beach is also hereby instructed and directed to apply all of the provisions of said District to the Properties as described herein; the same shall be in full force and effect and be a part of Title 20 of the Newport Beach Municipal Code.

SECTION 7. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. This Ordinance shall be published once in the official newspaper of the City within fifteen (15) days of its adoption. This Ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach, held on the 14th day of May, 1990, and was adopted on the 29th day of May, 1990, by the following vote, to wit:

AYES, COUNCIL MEMBERS TURNER, WATT, SANSONE,

PLUMMER, HART, COX

NOES, COUNCIL MEMBERS NONE

ABSENT COUNCIL MEMBERS STRAUSS

Ruthely Plummer
MAYOR

ATTEST

Wanda E. Raggio
CITY CLERK

F\JM\ORD\A698MFR.222

Attachment: Exhibit "A," "B," and "C"



Attachment No. PC 4

Section 423 Analysis Table

Address	Existing Development	GP	Allowed Density	Allowed Intensity/floor area	Existing Traffic Land Use Description	Existing AM	Existing PM	Proposed GP	Proposed density	Proposed Intensity/Floor Area	Proposed Traffic Land Use Description	Proposed AM	Proposed PM	AM Change	PM Change	Total du changes	Total square footage changes
ACTION 1 APPROVAL (GP2011-005) WITHIN THIS STATISTICAL AREA A2																	
1537 Monrovia Avenue, APN 424-401-08	The Allred Property, 33, 580 square-foot lot developed with two, light industrial use buildings	RM (2420)	13	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	6	7	IG, allows FAR 0.50 max	0	16,790.00	Industrial rate per Council Policy A-18 (1.0 AM & 1.0 PM trips per 1,000sf)	17	17	11	10	-13	16,790.0
80% of Approved Intensity- FAR										13,432.00		13	13	9	8	-10	13,432
ACTION 2 APPROVAL -GENERAL PLAN AMENDMENT NO. GP2011-006 - STATISTICAL AREA A2																	
1539 Monrovia Avenue, APN 424-401-06	The Dvorak Property, 49,642 square-foot lot developed with a single-story, multi-tenant, light industrial building	RM (2420)	20	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	9	11	IG, allows FAR 0.50 max	0	24,821	Industrial rate per Council Policy A-18 (1.0 AM & 1.0 PM trips per 1,000sf)	25	25	16	14	-20	24,821
80% of Approved Intensity- FAR										19,857		20	20	13	11	-16	19,857
1419 Superior Avenue, APN 424-021-07	The Dr. Morgan Property, 13,650 square-foot lot developed with a 6,590 s.f. two-story, multi-tenant office building	RM (2420)	5	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	2	3	CO-G, allows FAR 0.50 max, 0.49 PROPOSED	0	6,689	Commercial rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	20	27	18	24	-5	6,689
TOTAL FOR STATISTICAL AREA A2			38	0		17	21		0.00	39,977		53	60	40	43	-31	39,977

Burns, Marlene

PA2011-138

From: Wisneski, Brenda
Sent: Friday, December 02, 2011 3:36 PM
To: Burns, Marlene
Subject: FW: Dr. Morgan Property Amendments
Attachments: Scan001.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

From: Dennis D. O'Neil [<mailto:doneil@oneil-llp.com>]
Sent: Friday, December 02, 2011 2:58 PM
To: Michael Toerge; Bradley Hillgren; rhawkins@earthlink.com; Fred Ameri; Kory Kramer; Jay Myers
Cc: Brandt, Kim; Wisneski, Brenda; Sims, Kay; Mulvihill, Leonie; drwrmorgan@gmail.com
Subject: Dr. Morgan Property Amendments

To Members of the Planning Commission:

I represent Dr. Morgan on his application for amendments to the General Plan and Zoning Code to allow the continued medical uses on the property located at 1419 Superior Avenue. This matter is Item No. 3 on the agenda for your meeting on December 8, 2011. Dr. Morgan originally filed the attached application to extend the non-conforming use abatement period after receiving notice that the existing medical office uses were non-conforming and would no longer be permitted on his 1419 Superior Avenue property. Later, a decision was made to pursue the GPA and zone change in lieu of the amendments.

Much of the information included in the abatement period extension application has relevance and I am hereby submitting the attached application to be considered as part of the record in this proceeding.

Thank you,

Dennis D. O'Neil
O'Neil LLP
19900 MacArthur Blvd., #1050
Irvine, CA 92612
(949) 798-0734 (tel.)
(949) 798-0511 (fax)
doneil@oneil-llp.com

NOTICE TO RECIPIENT: THIS E-MAIL IS ATTORNEY PRIVILEGED AND CONFIDENTIAL AND MEANT ONLY FOR THE REVIEW AND USE OF THE INTENDED RECIPIENT OF THE TRANSMISSION. IF YOU RECEIVED THIS E-MAIL IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS E-MAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU IN ADVANCE FOR YOUR COOPERATION.

<<Scan001.PDF>>

Abatement Period Extension Application

Planning Department
3300 Newport Boulevard, Newport Beach, CA 92663
(949) 644-3200 Telephone 1 (949) 644-3229 Facsimile
www.newportbeachca.gov

Property Owner/Applicant Name: William Roy Morgan, M.D., F.A.C.S.	Contact (if different) Name: Dennis D. O'Neil
Mailing Address: Equity Enterprises, Ltd.	Mailing Address: O'Neil LLP
1419 Superior Ave., Ste. #2, Newport Beach, CA 92663	19900 MacArthur Blvd., Suite 1050, Irvine, CA 92612
Phone: () 949-645-6665	Phone: () 949-798-0734
Fax: () 949-645-6784	Fax: () 949-798-0511
Email Address: drwrmorgan@gmail.com	Email Address: doneil@oneil-llp.com

Owner's Affidavit

Dennis D. O'Neil, on behalf of applicant Dr. William Morgan,

(I) (We) _____ depose and say that (I am) (we are) the owner(s) of the property(ies) involved in this application. (I) (We) further certify, under penalty of perjury, that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my) (our) knowledge and belief.

Signature(s) _____

Dennis D. O'Neil

Date June 7, 2011

Owner's Agent Authorization Letter Attached

NOTE: An agent may sign for the owner if written authorization from the record owner is filed with the application.

Please answer the questions below. Attach additional sheets, if necessary.

1. Please describe how abatement of the use at this time relates to your investment in the use.

By letter dated January 14, 2011, Dr. William Roy Morgan, principal partner of Equity Enterprises, Ltd. and owner of the building (the "Building") at 1419 Superior Avenue (the "Property") was notified that the zoning classification for the Property was changed from Administrative-Professional-Financial (APF) to Multiple Residential (RM). The uses in the Building are now considered non-conforming and subject to abatement which must be discontinued on or before November 25, 2011. This application is being filed requesting a time extension for the abatement period. Dr. Morgan may at a future time submit and process an amendment to the General Plan and zoning code to remove the non-conforming use classification and convert the Property and Building to the existing permitted uses for medical, clinical, dental and other medical office uses. As will be explained in answer to Question #2, Dr. Morgan has occupied the Building for his medical offices and cosmetic surgery center since 1985. In addition, Dr. Morgan has entered into multi-year leases with tenants in the other suites in the Building currently occupied by a walk-in medical clinic and dental offices. Dr. Morgan has over \$1 million invested in improvements in the Building. Rezoning the Property to residential does not serve to protect the public health, safety or welfare and would constitute an unconstitutional taking of the Property without providing just compensation. As will be explained later in answers to other questions on this application, it would not be appropriate or, for that matter, even possible to convert the Property to a residential use and relocate the existing uses to another area if, in fact, such another location existed, which it does not.

2. How long has the use been operating?

Dr. William Roy Morgan is the sole partner and principal of Equity Enterprises, Ltd., the record owner of the property at 1419 Superior Avenue. The Property was acquired by Dr. Morgan in 1978 and over \$1 million has been spent to upgrade and renovate the Building on the Property during the period of 1978-1981. There are six medical/dental offices located on the subject property. Since 1983, the office suite at the front of the Building continues to be occupied by the Superior Walk-In Medical Clinic. This emergency and urgent care facility fronts on the major Superior Avenue thoroughfare affording prominent visibility and convenient access and parking for residents of Newport Beach and visitors to the beaches nearby. Two of the building suites contain medical offices and a surgery center occupied by Dr. Morgan who specializes in cosmetic surgery and has practiced his profession at this facility for over 25 years. The remaining three suites in the building are occupied as dental offices. It should be understood that it took a period of over seven years to license and certify the surgery center by the federal and state regulatory agencies having jurisdiction over this type of a facility. The Building is located nearby and across from other medical office buildings. Hoag Memorial Hospital Presbyterian is located in the immediate vicinity of the Building. Hoag Health Center is located on Superior Avenue, a few blocks from the Property.

3. Please describe the suitability of the structure for an alternative use.

There are no other suitable uses for the Building or any alternate use other than those medical, clinical and dental uses currently occupying the Property. Dr. Morgan tells me it would take anywhere from seven to ten years of permitting, licensing and regulatory federal and state agency approvals to establish another surgery center similar to the surgery center located in the Building. Costs associated with obtaining a surgery center certification from the regulatory agencies and constructing and developing such a surgery center would be prohibitive and take an extraordinary amount of time. Under any relocation scenario, Dr. Morgan would suffer significant financial damages, but, more importantly, he would incur an impairment of his surgical skills by the delay of time it would take to license and construct a new surgery center during which he would not be able to practice his profession. Dr. Morgan's livelihood would further be adversely impacted significantly by the loss of rental income from the other building suites and he would be placed in a position of breaching legally binding contractual commitments and leases with the existing tenants.

4. Please describe way there would be no harm to the public if the use remains beyond the abatement period.

There is no record of any complaints from patients or neighboring property owners or anyone else concerning traffic, parking, noise or any nuisance problems associated with the operation of the medical, clinical and dental offices at the Building on the Property. To the contrary, the Superior Walk-In Medical Clinic has provided a significant facility offering emergency urgent care for the public's convenience, health and safety for many years. This is equally true and would also apply to the other uses in the Building.

5. Please describe the cost and feasibility of relocating the use to another site.

Regardless of the prohibitive costs involved, there is no other property in the vicinity of 1419 Superior Avenue which could accommodate the uses currently in existence in the Building. Termination of the medical, clinical and dental uses in the Building would result in a significant loss of patients and goodwill which has been established over the past 25 years. The cost and feasibility of relocating the existing uses in the Building to another site and converting the Property to a residential use would subject the City to payment of just compensation and damages which could amount to millions of dollars.

6. Is there any other evidence relevant to the determination of whether an extension of the abatement period is required to avoid an unconstitutional taking of property?

It is acknowledged that zoning ordinances may require termination of non-conforming uses by providing for a reasonable amortization period, but must consider the investment involved. The reasonableness of the amortization period depends, among other things, on such factors as including the depreciated value of the structure to be removed, the viability and practicality of removing the structure and uses in the Building, the remaining useful life of the structure, and the harm to the public if the structure is left remaining.

In order to avoid an unconstitutional taking of Dr. Morgan's property, this request is respectfully made for a minimum period of 20 years to abate and terminate the legal non-conforming use on the property at 1419 Superior Avenue in the City of Newport Beach.